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By: **Chairman, Health and Government Operations Committee (By Request  
- Departmental - Education)**

Introduced and read first time: January 22, 2004

Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **Education - County Boards of Education - Competitive Bidding**

3 FOR the purpose of increasing the threshold dollar amount of a contract for which a  
4 county board of education must use competitive bidding; providing that a certain  
5 threshold amount shall be the same as a certain amount that applies to units of  
6 State government under certain circumstances; making a stylistic change; and  
7 generally relating to public school procurement.

8 BY repealing and reenacting, with amendments,  
9 Article - Education  
10 Section 5-112  
11 Annotated Code of Maryland  
12 (2001 Replacement Volume and 2003 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Education**

16 5-112.

17 (a) This section does not apply to:

18 (1) Contracts for the purchase of books and other materials of instruction  
19 as defined in the State Department of Education Financial Reporting Manual;

20 (2) Emergency repairs; and

21 (3) A county board's participation in contracts for goods or commodities  
22 that are awarded by other public agencies or by intergovernmental purchasing  
23 organizations if the lead agency for the contract follows public bidding procedures.

24 (b) (1) [If] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,  
25 IF the cost of any school building, improvement, supplies, or equipment is more than

1 [\$15,000] \$25,000, the county board, at least 2 weeks before bids are to be filed, shall  
2 advertise for bids in a medium accessible to the general public, which includes:

- 3 (i) A newspaper of general circulation in the region;
- 4 (ii) The Maryland Contract Weekly or comparable State  
5 publication; or
- 6 (iii) An electronic posting on a bid board and physical posting on the  
7 local school system bid board.

8 (2) IF THE AMOUNT SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION  
9 DIFFERS FROM THE AMOUNT IN § 13-109(A) OF THE STATE FINANCE AND  
10 PROCUREMENT ARTICLE, THE AMOUNT IN § 13-109(A) OF THE STATE FINANCE AND  
11 PROCUREMENT ARTICLE SHALL APPLY UNDER PARAGRAPH (1) OF THIS SUBSECTION.

12 [(2)] (3) (i) The county board shall draft specifications that provide a  
13 clear and accurate description of the functional characteristics or the nature of an  
14 item to be procured, without modifying the county board's requirements.

15 (ii) The specifications may:

- 16 1. Include a statement of any of the county board's  
17 requirements; and
- 18 2. Provide for the submission of samples, inspection, or  
19 testing of the item before procurement.

20 [(3)] (4) (i) Except as provided in subparagraph (ii) of this  
21 [subsection] PARAGRAPH, specifications that use one or more manufacturer's product  
22 to describe the standard of quality, performance, or other characteristics needed to  
23 meet the county board's requirements, must allow for the submission of equivalent  
24 products.

25 (ii) Subparagraph (i) of this paragraph does not apply if the county  
26 board determines in the written specification that:

- 27 1. A particular manufacturer's product is required to  
28 maintain compatibility of service or equipment;
- 29 2. A particular manufacturer's product is required to meet  
30 the health needs of students;
- 31 3. Replacement parts or maintenance are a paramount  
32 consideration; or
- 33 4. A product is purchased for resale.

34 (c) (1) A contract for the school building, improvements, supplies, or other  
35 equipment shall be awarded to the lowest responsible bidder who conforms to  
36 specifications with consideration given to:

- 1 (i) The quantities involved;
- 2 (ii) The time required for delivery;
- 3 (iii) The purpose for which required;
- 4 (iv) The competency and responsibility of the bidder;
- 5 (v) The ability of the bidder to perform satisfactory service; and
- 6 (vi) The plan for utilization of minority contractors.
- 7 (2) The county board may reject any and all bids and readvertise for  
8 other bids.

9 (d) (1) In this subsection, the term "minority business enterprise" has the  
10 meaning stated in § 14-301 of the State Finance and Procurement Article.

11 (2) In Montgomery County, by resolution and by implementing  
12 regulations, the Montgomery County Board of Education shall establish a minority  
13 business utilization program to facilitate the participation of responsible certified  
14 minority business enterprises in contracts awarded by the Montgomery County Board  
15 of Education in accordance with competitive bidding procedures.

16 (e) Nonpublic schools may participate under any contracts for goods or  
17 commodities that are awarded by county boards, other public agencies, or  
18 intergovernmental purchasing organizations, if the lead agency for the contract  
19 award follows public bidding procedures.

20 (f) A contract entered into or purchase made in violation of this section is void.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
22 effect July 1, 2004.